

STATE OF NORTH DAKOTA

**NORTH DAKOTA GAME AND FISH DEPARTMENT
100 NORTH BISMARCK EXPRESSWAY
BISMARCK, ND 58501**

Request For Proposal (RFP)

RFP Title: Janitorial Services, Bismarck Office

RFP Number: 720.100-06-Janitorial Bis

Date of Issue: 5/9/06

Purpose of RFP: Janitorial Services for the Bismarck Office Building

Procurement Officer: Kim Molesworth

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SECTION ONE INTRODUCTION AND INSTRUCTIONS

1.01

Purpose of the RFP

The North Dakota Game and Fish Department, Administration Division, hereafter known as "purchasing agency" or "State" is soliciting proposals for janitorial services to maintain the Bismarck office building in a neat, clean and professional appearance.

The building is approximately 43,050 square feet, however not all areas of the building will be cleaned as part of this contract.

1.02

Contact Person, Telephone, Fax, E-mail

The procurement officer is the point of contact for this RFP. All vendor communications regarding this RFP must be directed to the procurement officer. Unauthorized contact regarding the RFP with other State employees of the purchasing agency may result in the vendor being disqualified, and the vendor may also be suspended or disbarred from the state bidders list.

PROCUREMENT OFFICER: **Kim Molesworth**

PHONE: **701-328-6605**

FAX: **701-328-6352**

TTY Users call: 1-800-366-6888 (Relay North Dakota)

E-MAIL: ndgfdadmin@state.nd.us

1.03

RFP Schedule

This schedule of events represents the State's best estimate of the schedule that will be followed for this RFP. If a component of this schedule, such as the deadline for receipt of proposals, is delayed, the rest of the schedule will be shifted by the same number of days.

The approximate RFP schedule is as follows:

- RFP Issued: **5/9/06**
- Mandatory On-site walk through: **5/18/06, 4:00 p.m.**
- Deadline for receipt of questions and objections related to the RFP: **5/30/06**
- Responses to questions / RFP amendments (if required) **5/31/06**
- Proposals due by: **6/6/06, 4:00 pm CST**
- Proposal Evaluation Committee evaluation completed by approximately : **6/8/06**
- State issues Notice of Intent to Award a Contract approximately: **6/9/06**
- State issues contract approximately: **6/19/06**
- Contract start: **7/1/06**

1.04

Return Mailing Address and Deadline for Receipt of Proposals

Offerors must submit **THREE COPIES** of its proposal in a **12 x 9 (at a minimum)** sealed envelope or package.

Cost proposals are to be submitted in a separate sealed envelope within the package, clearly labeled "cost proposal."

Envelopes or packages containing proposals must be clearly addressed as described below to ensure proper delivery and to avoid being opened by the State before the deadline for receipt. Envelopes or packages must be addressed as follows:

**North Dakota Game and Fish Department
Attn: Kim Molesworth
RFP: Janitorial Services, Bismarck Office
RFP #: 720.100-06-Janitorial Bis
100 North Bismarck Expressway
Bismarck, ND 58501-5095**

Proposals must be **received by** the purchasing agency at the location specified **no later than 4:00 P.M., CENTRAL time, on June 6**. Proposals will not be publicly read at the opening.

Proposals may not be delivered orally, by facsimile transmission, by other telecommunication or electronic means.

Offerors assume the risk of the method of dispatch chosen. The State of North Dakota ("State") assumes no responsibility for delays caused by any delivery service. Postmarking by the due date will not substitute for actual proposal receipt by the State. An offeror's failure to submit its proposal prior to the deadline will cause the proposal to be rejected. Late proposals or amendments will not be opened or accepted for evaluation.

1.05

Assistance to Offerors with a Disability

Offerors with a disability that need an accommodation should contact the procurement officer prior to the deadline for receipt of proposals so that reasonable accommodation can be made.

1.06

Deadline for Receipt of Questions and Objections

Offerors must carefully review this solicitation, the contract, risk management provisions, and all attachments for defects, questionable, or objectionable material. All questions must be in writing and directed to the purchasing agency, addressed to the procurement officer, and cite the subject RFP number. The procurement officer must receive these written requests by the deadline specified in the RFP Schedule of Events to allow issuance of any necessary amendments.

This will also help prevent the opening of a defective solicitation and exposure of offeror's proposals upon which an award could not be made. Protests based on the content of the solicitation will be disallowed if these faults have not been brought to the attention of the procurement officer, in writing, before the time indicated in the Schedule of Events.

If the question may be answered by directing the questioner to a specific section of the RFP, then the procurement officer may answer the question over the telephone. Other questions may be more complex and may require a written amendment to the RFP. The procurement officer will make this determination.

Oral communications is considered unofficial and non-binding on the State. The offeror must confirm telephone conversations in writing.

1.07

Approved Vendor Registration Requirements

VENDORS MUST BE APPROVED BEFORE CONTRACT AWARD

Proposals will be accepted from vendors that are not currently approved vendors on the State's bidders list; however, the successful offeror will be required to become approved prior to award.

To become an approved vendor, offerors must: 1) be registered with the North Dakota Secretary of State (fees apply), and 2) submit a completed Bidders List Application to the North Dakota Vendor Registry Office. Prospective offerors may access the Procurement Vendor Database on-line to verify whether their firm is currently on the bidders list. The bidders list that will be used for this solicitation is commodity code **910-39**.

The Procurement Vendor Database, registration instructions and forms are available on-line at: <http://www.state.nd.us/csd/spo/vendor-registry/bidders-list.htm>. Contact the Vendor Registry Office at 701-328-2773 or infospo@state.nd.us for assistance.

Field Code Changed

Field Code Changed

The successful offeror must register and become approved within **30 CALENDAR** from the date of the Notice of Intent to Award. If an offeror fails to become approved by the time specified by the Procurement Officer, its proposal will be determined to be non-responsive, and its proposal will be rejected.

1.08

On-Site Visit

The scheduled site visit is **mandatory** to be considered for bid award. A representative of your company must attend the site visit at the date, time, and location specified below:

DATE: **Thursday, May 18**

TIME: **4:00 p.m.**

LOCATION: **100 N. Bismarck Expressway, Bismarck (Meet in front lobby)**

The site visit is required to familiarize the offeror with the facilities at the agency and various areas that will require cleaning. The building is approximately 43,050 square feet, however not all areas of the building will be cleaned as part of this contract. Offerors will be escorted through the building and shown areas that will require cleaning. Offerors are responsible for taking any measurements that they may need and examine the premises to come up with any questions in order for them to submit a bid.

Failure to attend the site visit and sign the sign-in sheet will result in the rejection of your bid.

Offerors with a disability needing accommodation should contact the procurement officer.

1.09

Amendments to the RFP

If an amendment to this RFP is issued, it will be provided to all offerors that were mailed or emailed a copy of the RFP and to those that have requested a copy of the RFP from the procurement officer.

1.10

News Releases

News releases related to this RFP will not be made without prior approval of the procurement officer or project manager designated by the State.

1.11

Notice Provided

Notice of this solicitation has been provided in accordance with N.D.C.C. 54-44.4-09.

The Request for Proposal and any amendments to the RFP will be posted on the following website:

<http://gf.nd.gov/info/rfp.html>.

1.12

Letter of Interest

Vendors not on State Procurement's vendor database under class code **910-39** that become aware of this RFP per our on-line posting, should contact the agency procurement officer to receive any amendments or notices related to this RFP if they are interested. Provide the procurement officer with the name of their firm, contact person, mailing address, telephone number, fax number, and e-mail address. The sole purpose of the letter of interest is to provide the purchasing agency with a contact person to receive any notices related to the RFP. Submission of a letter of interest is not a requirement for submitting a proposal.

SECTION TWO BACKGROUND INFORMATION

2.01

Background Information

The ND Game and Fish Department is seeking proposals for janitorial services due to State bidding requirements. Background information concerning this project is as follows:

The main office of the North Dakota Game and Fish Department was constructed in 1985 at a cost of approximately 2 million dollars. At the time of construction, it was regarded as one of the finest built buildings between Minneapolis and the west coast. Eight foot solid oak doors, high quality vinyl wall coverings, and top of the line fixtures were installed throughout. Building system specialists marveled at the heating/cooling and other operational systems that were in place. A 2400 gallon aquarium and other built in displays graced the lobby. One lobby display, a wetlands diorama, was constructed by a company out of Florida at a cost of approximately \$40,000. High quality carpet was installed throughout the entire facility and that original carpet remains today.

The building soon became a favored place for local, regional, and statewide meetings. The auditorium is capable of handling close to 200 people and was fitted with state of the art audio/video technology. Our aquarium, displays and mounted wildlife and artwork in the lobby are viewed by thousands of people each year. Three additional conference rooms are available for small meetings and are used by various conservation/wildlife organizations throughout the year. The director's conference room is occasionally used for meetings including the governor and his staff. Legislative functions, high level meetings and increased hunter education classes over the years ensure that the main office building is used to its full potential. The building sees a lot of use.

The staff of the North Dakota Game and Fish Department take pride in our main office facility and enjoy working here. The sportsmen and sportswomen of this state have contributed to this facility and they take pride in it as well.

Since the building's inception, we had the same husband and wife janitorial service cleaning the building. It was their only job and so they too – took great pride in keeping up the place. Last year due to State bidding requirements, we bid out the service for a one year contract. We are now looking to bid the service for up to a 4 year contract.

SECTION THREE SCOPE OF WORK

3.01 Scope of Work

3.01.1 Overview

The North Dakota Game and Fish Department is soliciting proposals for conducting daily janitorial services for the Bismarck office building.

3.01.2 Definitions

- (1) AMENDMENT – Means a written official modification to a Request for Proposals or to a Contract.
- (2) CONTRACT DOCUMENTS – Contract Documents include the Request for Proposal (RFP), the Offeror's Proposal, any addenda related to the RFP or the Contractor's Proposal, the Notice of Award, the contract between the North Dakota Game and Fish Department and the Contractor, any Supplementary Conditions of the Contract, and any Modifications of the Contract.
- (3) CONTRACTOR – Means the offeror that is awarded the contract for the RFP.
- (4) FISCAL YEAR – Means July 1 to June 30.
- (5) MAY – Means that a certain feature, component, or action is authorized, but is not mandatory.
- (6) MUST - Means that a certain feature, component, or action is a mandatory condition or requirement.
- (7) N.D.C.C. – Means the North Dakota Century Code, the laws enacted by the North Dakota legislature.
- (8) OFFEROR – Means the party that responds to an RFP by submitting a proposal.
- (9) REQUEST FOR PROPOSAL (RFP) - Means the solicitation document issued by the North Dakota Game and Fish Department with specifications, terms, and conditions for potential contractors to provide goods or services.
- (10) SHALL – Has the meaning as the word "must".
- (11) SHOULD – Means that a certain feature, component, or action is recommended or desirable, but is not a mandatory condition or requirement.

3.01.3 State-Furnished Property/Services

State shall provide the following:

1. Restroom supplies (paper towels, hand soap, toilet paper).
2. Garbage can liners.

3.01.4 Contractor-Furnished Property

Contractor shall be required to provide:

1. All cleaning chemicals (e.g. disinfectant, glass cleaner, floor wax, etc.) will be provided by the Contractor in accordance with specifications listed and all state and federal laws regarding the use of such chemicals. No additional charge will be made for such items.
2. All cleaning equipment, tools, rags, etc. (e.g. vacuums, brooms, mops, mop pails, extension cords, rags). Preference will be given to offerors having commercial grade equipment.
3. Preferred Chemical Specifications:
 - All Purpose Cleaner**
May be used on any hard surface which will not be damaged by water. Fresh fragrance, non-ammoniated, biodegradable, phosphate-free, PH of 12.5 to 13.5. Non-butyl, soap free, non-abrasive. Must remove common soils found on hard surfaces (wall, woodwork, counter tops, etc.) USDA approved
 - Glass Cleaner**
Non-ammoniated and must remove grease, oil and lipstick from glass and mirrors without causing buildup.
 - Floor Finish**

High gloss metal interlock durable, scuff, scratch and black heel mark resistance. Must not discolor with age or after recoating. Must be classified by Underwriter's Laboratories, Inc. as slip resistant. Must be easily removed by conventional strippers. Solid content must be 20% minimum.

•**Floor Stripper**

Non-ammoniated, biodegradable, phosphate-free, must remove waxed, polymers and metal interlock floor finish. Must be low order, non-abrasive, non-flammable, and PH of concentrate 12.0 to 13.5.

•**Floor Cleaner**

Non-ammoniated neutral PH of 9.0 to 10.0. Must remove soil without damage to floor finish. Must be biodegradable, phosphate-free and have a pleasant odor.

•**Furniture Cleaner**

Self-cleaning, non-oily and leave shine without causing build up.

•**Disinfectant Cleaner**

Must be of hospital grade. Must be effective in hard water up to 400 PPM in the presence of 55 serum. Must be effective against a broad spectrum of germs. Must be quaternary-based germicide with a minimum of 10% active quat.

•**Restroom cleaner**

Must be safe on ceramic, stainless steel chrome, porcelain and vitreous china. Must remove hard water deposits, soap scum, rust and oil deposits from surface listed above. Non-ammoniated, non-abrasive, biodegradable and contains non-hydrochloric acid. Fresh scent and non-irritating fumes with 55 minimum phosphoric acid base and contains detergents. Free rinsing.

3.01.5 Description of Specific, Results-Oriented Tasks

A. Hours: The bid should be based on a 5 day work week (Monday – Friday). Friday's cleaning may be done on Friday, Saturday or Sunday, but must be the same day each week.

1. A minimum of **4 hours per night** of cleaning is required.
2. **Work shall not begin prior to 5:00 p.m.** In order to assist us in securing the building, preference will be given to janitorial work that begins daily at **5:00 p.m.** By starting at 5:00 p.m., the janitor will be in the building as staff leave and typically would be the last one out of the building each night. The janitor would ensure the building was locked before they left.
3. The vendor will be required to follow a fixed schedule so we know when to expect them on a regular basis.
4. Preference will be given to vendors that provide the same staff on a regular basis in order to decrease the amount of required training and questions.

B. Holidays and Vacations: Janitorial Services will not be required on holidays recognized and observed by the State.

The Janitorial Contract does not provide for any vacation time off. The vendor must provide and pay for back up janitorial services in their absence. The Department shall be notified in advance when the contracted vendor will be absent and the name and phone number of the back up.

C. Keys The Contractor shall be responsible for any lost keys, card keys and any inherent damages (i.e., re-keying of whole facility). This cost shall be withheld from payment(s). The decision to re-key the whole facility is solely that of the State Contract Administrator. Adequate keys will be issued to the Contractor. All issued keys must be returned to the State Contract Administrator at the conclusion of this contract.

D. Work Schedule:

1.) Daily General Work Duties:

1. Empty and wipe all waste receptacles. Place trash for disposal in designated areas, including recyclable materials in the appropriate containers for the facility.
2. Place clean plastic bag liner inside of designated waste receptacles.

3. Dust mop all resilient tile floor areas with chemically treated equipment (e.g. mop sprayed with endust).
4. Damp mop all spills and trackage on resilient tile floor areas.
5. Damp mop entire front entrance (ceramic tile).
6. Wash all north and south entrance way glass and doors.
7. Vacuum all carpeted areas in south entrance, including the stairway. Vacuum mailroom, coffee room, all open landing areas, all hallways and entrances to division pods. (Vacuum carpet edging along base boards with attachments twice a week in these areas if regular vacuuming doesn't pick it.)
 - a.) Vacuum and spot clean carpet areas in entire building twice a week.
8. Coffee room – remove papers on tables and place in recycle bins; gather and wash coffee pots; wash dishes in sink; clean countertops, microwave, walls near appliances and behind sink, areas next to garbage cans, and tables.
9. Drinking fountains - clean entire top and exterior of drinking fountains; clean around bubbler leaving no residue around fixture (twice a week).

II.) Daily Restroom Duties:

1. Clean and sanitize bathroom fixtures, door handles, containers, and dispensers (including sinks and countertops). Chrome fixtures and sink basins should shine.
2. Clean mirrors to a clean, unstreaked condition.
3. Replenish paper towel, toilet paper, and hand soap supply.
4. Remove all marks, clean and disinfect all lavatories, toilet bowls, seats, urinal and flush valves with cleaners not harmful to the finish and wipe dry. Leave no residue around or on fixtures; fixtures should shine.
5. Remove all marks, soils, stains, water stains, organic matter and dust from bathroom partitions and ledges, etc. Wipe down walls next to urinals to prevent build up.
6. Wet mop and sanitize floors, and vacuum carpet and edging.
7. Empty trash cans (and small disposal containers in woman's stalls).

III.) Daily Other Duties:

1. Before exiting building: a) ensure all lights are off; b) check and lock all doors as the last step prior to leaving the premise, c) check who is left in the building and only arm the security system if you are the last one out.
2. Keep janitorial rooms clean, organized and locked.
3. Notify the Contract Administrator of restroom supply needs by agreed method that will facilitate adequate supply for replenishment requirements.
4. Be observant of the building and aware of any problems that arise (e.g. a window that is left open). Call the Building Maintenance Supervisor immediately with any concerns or issues.

IV.) Weekly General Work Duties:

1. Dust desks, file cabinets, other furniture, and window ledges that are not covered with other material.
2. Clean showers in restrooms. If the shower hasn't been used that week, operate it to fill the drain trap.
3. Spot clean glass, door frames, door knobs, light switches, baseboards, kick plates, bathroom areas, walls, etc. to remove all hand marks, and soiled spots.

V.) Periodically (As Needed):

1. Auditorium – the entire auditorium is cleaned, on average, at least twice a week throughout the year. The vendor will be provided a calendar of upcoming scheduled usage. Based on use, it may need to be cleaned as little as once a week and as often as four times a week. Cleaning would include coffee pots. This room needs to be checked daily.
2. Scrub and wax resilient tile floors.
3. Wipe down countertops (mailroom, licensing, etc.), kitchen cabinets, lobby glass area, aquarium glass and other high traffic exposed surfaces. Note that fingerprints and smears to glass areas should be cleaned daily.

4. Sweep and mop back garage floor. Scrub garage mat. Empty 3 garbages. Wipe off tables.
5. Empty mailroom, coffee room, auditorium, and lower level hall recycle bins/cans to appropriate bins in garage.
6. Take empty boxes from designated areas to garage.
7. Vacant office cleaning. In the event an office is vacated due to staff changes, etc, vendor must do a thorough cleaning of vacant office before occupied by new staff.

VI.) Semi-Annual:

1. Notify Building Maintenance Supervisor in advance of the dates chosen for the following cleaning to be done twice a year:
 - a. Wash all inside windows. Leave clear and unstreaked.
 - b. Clean window blinds and window ledges. Advance notice must be given to staff prior to cleaning their area.

VII.) Annually:

1. Pull out refrigerator - vacuum and clean behind it. Janitor must ensure there are no leaks and that coiled fill hose is not kinked when sliding back in place. Coordinate with Building Maintenance Supervisor.
2. Pull out mailroom copier – vacuum and clean behind it.
3. Clean other hard to reach dirty areas as needed and at least once per year (e.g. the counter top behind the fax machine in the mailroom.)

3.01.6 Quality Assurance

The State shall periodically communicate with the contractor via email, telephone, or on-site to address questions, concerns, or progress.

3.01.7 Technical Exhibits

- None

3.02

Location of Work

The work is to be performed, completed, and managed at the following locations:

100 N. Bismarck Expressway, Bismarck

The State will provide a janitor closet on-site for the contractor.

3.03

Prior Experience

No specific minimums have been set for this RFP.

3.04

Required Licenses

Not applicable.

3.05

Federal Requirements

The ND Game and Fish Department (NDGFD) receives Federal financial assistance from the US Fish and Wildlife Service. In accordance with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, and Title IX of the Education Amendments of 1972, the NDGFD joins the US Department of

the Interior and its Bureaus in prohibiting discrimination on the basis of race, color, national origin, age, disability, sex in education programs or activities, and also religion for NDGFD.

3.06

Deliverables

The contractor will be required to provide the following deliverables:

- (a) Cleaning based on the work schedule detailed in the RFP.
- (b) An invoice on a monthly basis.

3.07

Contract Schedule

This schedule of events represents the State's best estimate of the contract schedule that will be followed. If a component of this schedule, such as the award date, is delayed, the rest of the schedule will be shifted by the same number of days.

The approximate contract schedule is as follows:

- Contract start: **July 1, 2006**
- "Kick off" conference: approx. **June 26, 2006**
- First contractor work day: **July 3, 2006**
- 30-day Review: **August 1**

SECTION FOUR GENERAL CONTRACT INFORMATION

4.01

Contract Term, Extension and Renewal Options

The State intends to enter into a contract with an effective date beginning **July 1, 2006** and ending **June 30, 2007**.

Renewal Option

This contract may be renewed upon satisfactory completion of the initial contract term. The state reserves the right to execute up to **THREE** options to renew this contract annually under the same terms, conditions, and cost for a period of **12 MONTHS** each. This contract will not automatically renew. The State will provide written notice to the contractor of its intent to renew this contract at least **60 days** before the scheduled contract expiration date.

4.02

Contract Type

This contract is a **Firm Fixed Price** contract. A fixed price contract is one that obligates the contractor to performance at a specified price.

4.03

Standard Contract Provisions

The successful offeror will be required to sign and submit the contract similar to the one attached to this RFP (**Attachment 1**). The contractor must comply with the contract provisions set out in this attachment. Any objections to the contract provisions must be set out in the offeror's proposal. No alteration of these provisions will be permitted without prior written approval from the purchasing agency.

Offerors are instructed to contact the procurement officer in writing by the deadline set for questions with any concerns regarding the contract provisions.

4.04

Proposal as a Part of the Contract

This RFP and the successful proposal are considered to be part of the contract documents.

4.05

Additional Terms and Conditions

The State reserves the right to add, delete, or modify terms and conditions during contract negotiations. These terms and conditions will be within the scope of the RFP and will not affect the proposal evaluations.

4.06

Supplemental Terms and Conditions

Proposals including supplemental terms and conditions will be accepted, but supplemental conditions that conflict with those contained in this RFP or that diminish the State's right's under any contract resulting from the RFP will be considered null and void. The State is not responsible for identifying conflicting supplemental terms and conditions before issuing a contract award. After award of contract:

- (a) if conflict arises between a supplemental term or condition included in the proposal and a term or condition of the RFP, the term or condition of the RFP will prevail; and
- (b) if the State's rights would be diminished as a result of application of a supplemental term or condition included in the proposal, the supplemental term or condition will be considered null and void.

4.07

Contract Approval

This RFP does not, by itself, obligate the State. The State's obligation will commence when the purchasing agency approves the contract. Upon written notice to the contractor, the State may set a different starting date for the contract. The State will not be responsible for any work done by the contractor, even work done in good faith, if it occurs prior to the contract start date set by the State.

4.08

Contract Changes - Unanticipated Amendments

During the course of this contract, the contractor may be required to perform additional work. That work will be within the general scope of the initial contract. When additional work is required, the project manager designated by the State will provide the contractor a written description of the additional work and request the contractor to submit a firm time schedule for accomplishing the additional work and a firm price for the additional work. Cost and pricing data must be provided to justify the cost of amendments.

The contractor will not commence additional work until the project director has secured any required State approvals necessary for the amendment and issued a written contract amendment, approved by the purchasing agency.

4.09

Indemnification and Insurance Requirements

Offerors must review the attached Risk Management Appendix (**Attachment 2**) for indemnification and insurance requirements. The indemnification and insurance provisions will be incorporated into the final contract.

Objections to any of the provisions of the Indemnification and Insurance Requirements must be made in writing to the attention of the procurement officer by the time and date set for receipt of questions. No alteration of these provisions will be permitted without prior written approval from the purchasing agency in consultation with the North Dakota Risk Management Division.

Upon receipt of the Notice of Intent to Award, the successful offeror must obtain the required insurance coverage and provide the procurement officer with proof of coverage prior to contract approval. The coverage must be satisfactory to the purchasing agency, in consultation with the North Dakota Risk Management Division. An offeror's failure to provide evidence of insurance coverage is a material breach and grounds for withdrawal of the award or termination of the contract.

4.10

Taxes and Taxpayer Identification

The contractor must provide a valid Vendor Tax Identification Number as a provision of the contract.

The State is not responsible for and will not pay local, state, or federal taxes. The State sales tax exemption number is E-2001, and certificates will be furnished upon request by the purchasing agency.

A contractor performing any contract, including service contracts, for the United States Government, State of North Dakota, counties, cities, school districts, park board or any other political subdivisions within North Dakota is not exempt from payment of sales or use tax on material and supplies used or consumed in carrying out contracts. In these cases, the contractor is required to file returns and pay sales and use tax just as required for contracts with private parties. Contact the North Dakota Tax Department at 701-328-3470 or visit its website at www.nd.gov.tax for more information.

Field Code Changed

A contractor performing any contract, including a service contract, within North Dakota is also subject to the corporation income tax, individual income tax, and withholding tax reporting requirements, whether the contract is performed by a corporation, partnership, or other business entity, or as an employee of the contractor. In the case of employees performing the services in the state, the contractor is required to withhold state income tax from the employees' compensation and remit to the state as required by law. Contact the North Dakota Tax Department at 701-328-3125 or visit its web site for more information

4.11

F.O.B. Point and Freight

Not applicable - commodities will not be purchased as a result of this contract.

4.12

Contract Funding

Approval or continuation of a contract resulting from this solicitation is contingent upon continuing appropriation. The contract may be terminated by the state or modified by agreement of both parties in the event funding from federal, state, or other sources is not obtained and continued at sufficient levels.

4.13

Proposed Payment Procedures

The State will make payments on a monthly basis. Each billing must consist of an invoice.

The State will not make any advanced payments before performance by the contractor under this contract.

**4.14
Payment Terms**

No payment will be made until the purchasing agency approves the contract.

Payment for commodities and services received under contracts will normally be made within 30 calendar days after receipt and acceptance by the purchasing agency or after receipt of a correct invoice, whichever is later. Payment inquiries must be directed to the purchasing agency.

**4.15
Contract Personnel**

The project manager designated by the purchasing agency must approve any change of the contractor's project team members named in the proposal, in advance and in writing. Personnel changes that are not approved by the State may be grounds for the State to terminate the contract.

**4.16
Right to Inspect Place of Business**

Not applicable.

**4.17
Inspection & Modification - Reimbursement for Unacceptable Deliverables**

The contractor is responsible for the completion of all work set out in the contract. All work is subject to inspection, evaluation, and approval by the project manager designated by the State. The State may employ all reasonable means to ensure that the work is progressing and being performed in compliance with the contract. Should the project manager determine that corrections or modifications are necessary in order to accomplish its intent, the project manager may direct the contractor to make changes. The contractor will not unreasonably withhold changes.

Substantial failure of the contractor to perform the contract may cause the State to terminate the contract. In this event, the State may require the contractor to reimburse monies paid (based on the identified portion of unacceptable work received) and may seek associated damages.

**4.18
Termination for Default**

If the project manager designated by the purchasing agency determines that the contractor has refused to perform the work or has failed to perform the work with diligence as to ensure its timely and satisfactory completion, the State may, by providing written notice to the contractor, terminate the contractor's right to proceed with part or all of the remaining work.

This clause does not restrict the State's right to termination under the contract provisions of the Service Contract, attached. **(Attachment 1)**

**4.19
Open Records Laws - Confidentiality**

Any records that are obtained or generated by the contractor under this contract are subject to North Dakota open records law regarding public records and handling of confidential information.

4.20

Work Product, Equipment, and Material

All work product, equipment or materials created, purchased, or provided under this contract belong to the State and must be delivered to State at State's request upon termination of this contract, unless otherwise agreed in writing by the purchasing agency.

4.21

Independent Entity

The contractor is an independent entity under this contract and is not a State employee for any purpose. The contractor retains sole and absolute discretion in the manner and means of carrying out the contractor's activities and responsibilities under the contract, except to the extent specified in the contract.

4.22

Assignment

Contractor may not assign or otherwise transfer or delegate any right or duty without the State's express written consent.

4.23

Disputes - Applicable Law and Venue

Any dispute arising out of this agreement will be resolved under the laws of the State of North Dakota.

SECTION FIVE EVALUATION CRITERIA AND CONTRACTOR SELECTION

(THE TOTAL NUMBER OF POINTS USED TO SCORE THIS CONTRACT IS 100)

5.01

Management Plan for the Project

Forty Percent (40%) of the total possible evaluation points will be assigned to this criterion.

Proposals will be evaluated against the questions set out below:

[a] How well does the management plan support all of the project requirements and logically lead to the deliverables required in the RFP?

[b] Has the offeror identified issues or potential problems related to the project?

[c] How well is accountability completely and clearly defined?

[d] Is the organization of the project team clear?

[e] How many staff per night will be cleaning?

[f] Will the same staff be cleaning our building on a regular basis?

[g] What time will the offeror begin cleaning daily?

[h] Will the required minimum of 4 hours of cleaning daily be met?

- [i] What day will the offeror do Friday's cleaning (Friday, Saturday, or Sunday)?
- [j] How well does the management plan illustrate the lines of authority and communication?
- [k] Does it appear that offeror can meet the requirements of the work schedule set out in the RFP?
- [l] How often does the offeror plan to take vacation or be absent from cleaning the building? Who will be cleaning in the offeror's absence?
- [m] Is the proposal practical, feasible, and within budget?

5.02

Experience, Qualifications and Equipment

Ten Percent (10%) of the total possible points will be assigned to this criterion.

Proposals will be evaluated against the questions set out below:

Questions regarding the personnel.

- [a] Do the individuals assigned to the project have experience on similar projects? List the names and number of years of experience of the individuals.

Questions regarding the firm.

- [b] Has the firm demonstrated experience in completing similar projects satisfactorily and on time and within budget?
- [c] How successful is the general history of the firm regarding timely and successful completion of projects?
- [d] Has the firm provided at least 2 reference names and phone numbers from current/previous clients for similar projects?
- [e] Has the firm provided letters of reference from clients?
- [f] If a subcontractor will perform work on the project, how well does it measure up to the evaluation used for the offeror?
- [g] To what extent does the offeror already have commercial equipment necessary to perform the contract? List the equipment brand and model.

5.03

Contract Cost

Fifty Percent (50%) of the total possible evaluation points will be assigned to cost.

The lowest cost proposal will receive the maximum number of points allocated to cost. The point allocations for cost on the other proposals will be evaluated according to the method set forth in the Proposal Evaluation form attached to this RFP.

SECTION SIX PROPOSAL FORMAT AND CONTENT

6.01

Proposal Format and Content

The State discourages overly lengthy and costly proposals; however, in order for the State to evaluate proposals fairly and completely, offerors must follow the format set out in this RFP and provide all information requested.

6.02

Introduction

Proposals must include the complete name and address of offeror's firm and the name, mailing address, and telephone number of the person the State should contact regarding the proposal.

Proposals must confirm that the offeror will comply with all provisions in this RFP. The proposal must disclose any instances where the firm or any individuals working on the contract has a possible conflict of interest and, if so, the nature of that conflict (e.g. employed by the State of North Dakota).

Proposals must be signed by a company officer empowered to bind the company. An offeror's failure to include these items in the proposals may cause the proposal to be determined to be non-responsive and the proposal may be rejected.

6.03

Management Plan for the Project

Using Section 5 as a guide, the offerors must provide comprehensive narrative statements that set out the management plan it intends to follow and illustrate how the plan will serve to accomplish the work and furnish the deliverables described in the scope of work within the State's project schedule. Offerors must provide a narrative that describes the organization of the project team. The narrative must illustrate the lines of authority, designate the individual responsible and accountable for the completion of each component and deliverable of the RFP.

6.04

Experience and Qualifications

Offerors must describe the experience of their firm in completing similar projects. Additionally, offerors must provide information specific to the personnel assigned to accomplish the work called for in this RFP. Offerors must provide a narrative description of the organization of the project team and a personnel roster that identifies each person who will actually work on the contract and provide the following information about each person listed:

- (a) title;
- (b) experience;
- (c) description of the type of work the individual will perform; and
- (d) the number of estimated hours for each individual named above.

If an offeror intends to use subcontractors for vacation relief as defined in the RFP, the offeror must identify in the proposal the names of the subcontractors and the portions of the work the subcontractors will perform.

Offerors must provide TWO reference names and phone numbers for similar projects the offeror's firm

has completed. The State reserves the right to contact any references provided by the offeror. Offerors are invited to provide letters of reference from previous clients.

6.05 Cost Proposal

Offerors must provide its' cost proposal in the following format:
\$_____ per month

SECTION SEVEN STANDARD PROPOSAL INFORMATION

7.01 Authorized Signature

An individual authorized to bind the offeror to the provisions of the RFP must sign all proposals.

7.02 State Not Responsible for Preparation Costs

The State will not pay any cost associated with the preparation, submittal, presentation, or evaluation of any proposal.

7.03 Conflict of Interest

Offerors must disclose any instances where the firm or any individuals working on the contract has a possible conflict of interest and, if so, the nature of that conflict (e.g. employed by the State of North Dakota). The State reserves the right to cancel the award if any interest disclosed from any source could either give the appearance of a conflict or cause speculation as to the objectivity of the offeror's proposal. The State's determination regarding any questions of conflict of interest is final.

7.04 Offeror's Certification

By signature on the proposal, an offeror certifies that it complies with:

- a) the laws of the State of North Dakota;
- b) North Dakota Administrative Code;
- c) all applicable local, state, and federal laws, code, and regulations;
- d) the applicable portion of the Federal Civil Rights Act of 1964;
- e) the Equal Employment Opportunity Act and the regulations issued by the federal government;
- f) the Americans with Disabilities Act of 1990 and the regulations issued by the federal government;
- g) Section 504 of the Rehabilitation Act of 1973;
- h) the Age Discrimination Act of 1975;
- i) all terms, conditions, and requirements set forth in this RFP;
- j) a condition that the proposal submitted was independently arrived at, without collusion;
- k) a condition that the offer will remain open and valid for the period indicated in this solicitation; and
- l) a condition that the firm and any individuals working on the contract do not have a possible conflict of interest (e.g. employed by the State of North Dakota).

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If any offeror fails to comply with the provisions stated in this paragraph, the State reserves the right to reject the proposal, terminate the contract, or consider the contractor in default.

7.05

Offer Held firm

Proposals must remain open and valid for at least **90 DAYS** from the deadline specified for submission of proposals. In the event award is not made within **90 DAYS**, the State will send a written request to all offerors deemed susceptible for award asking offerors to hold their price firm for a longer specified period of time.

7.06

Amendments to Proposals and Withdrawals of Proposals

Offerors may amend or withdraw proposals prior to the deadline set for receipt of proposals. No amendments will be accepted after the deadline unless they are in response to the State's request. After the deadline, offerors may make a written request to withdraw proposals and provide evidence that a substantial mistake has been made. The procurement officer may permit withdrawal of the proposal upon verifying that a substantial mistake has been made, and the State may retain the offeror's bid bond or other bid type of bid security, if one was required.

7.07

Alternate Proposals

Offerors may submit only one proposal for evaluation. Alternate proposals (proposals that offer something different than what is requested) will be rejected.

7.08

Subcontractors

Subcontractors may only be used to perform work under this contract to provide relief during contractor vacation time off. If an offeror intends to use subcontractors, the offeror must identify in the proposal the names of the subcontractors and the portions of the work the subcontractors will perform.

If a proposal with subcontractors is selected, the offeror must provide the following information concerning each prospective subcontractor within **FIVE WORKING DAYS** from the date of the State's request:

- (a) complete name of the subcontractor;
- (b) complete address of the subcontractor;
- (c) type of work the subcontractor will be performing;
- (d) percentage of work the subcontractor will be providing;
- (e) evidence, as set out in the relevant section of this RFP, that the subcontractor is registered and, if applicable, holds a valid North Dakota business license; and
- (f) a written statement, signed by each proposed subcontractor, that clearly verifies that the subcontractor is committed to render the services required by the contract.

An offeror's failure to provide this information, within the time set, may cause the State to consider its proposal non-responsive and reject it. The substitution of one subcontractor for another may be made only at the discretion and prior written approval of the State's procurement officer or project manager designated by the State.

7.09

Joint Ventures

Joint ventures will not be allowed.

7.10

Disclosure of Proposal Contents and Compliance with North Dakota Open Records Laws

All proposals and other material submitted become the property of the State and may be returned only at the State's option. All proposals and related information, including detailed cost information, are exempt records and will be held in confidence until an award is made, in accordance with N.D.C.C. § 54-44.4-10(2).

Offerors may make a written request that trade secrets and other proprietary data contained in proposals be held confidential. Material considered confidential by the offeror must be clearly identified, and the offeror must include a brief statement that sets out the reasons for confidentiality. See the North Dakota Office of the Attorney General website for additional information.

<http://www.ag.state.nd.us/OpenRecords/ORM.htm>

After award, proposals will be subject to the North Dakota open records law. Records are closed or confidential only if specifically stated in law. If a request for public information is received, the procurement officer, in consultation with the Office of the Attorney General, will determine whether the information is an exception to the North Dakota open records law, and the information will be processed appropriately.

Field Code Changed

7.11

Evaluation of Proposals

All proposals will be reviewed to determine if they are responsive to the requirements of this solicitation. The procurement officer or an evaluation committee will evaluate responsive proposals. The evaluation will be based solely on the evaluation factors set forth in this RFP. The evaluation will consider information obtained subsequent to any discussions with offerors determined to be reasonable for award and any demonstrations or oral presentations if required in this RFP.

7.12

Right of Rejection

The State reserves the right to reject any proposals, in whole or in part. Proposals received from debarred or suspended vendors will be rejected. The procurement officer may reject any proposal that is not responsive to all of the material and substantial terms, conditions, and performance requirements of the RFP.

Offerors may not qualify the proposal nor restrict the rights of the State. If an offeror does so, the procurement officer may determine the proposal to be a non-responsive counter-offer and the proposal may be rejected.

The procurement officer may waive minor informalities that:

- do not affect responsiveness;
- are merely a matter of form or format;
- do not change the relative standing or otherwise prejudice other offers;
- do not change the meaning or scope of the RFP;
- are insignificant, negligible, or immaterial in nature;
- do not reflect a material change in the work; or
- do not constitute a substantial reservation against a requirement or provision,

The State reserves the right to reject any proposal determined to be not responsive, and to reject the proposal of an offeror determined to be not responsible. The State also reserves the right to refrain from making an award if it determines it to be in its best interest.

7.13

Clarification of Offers

In order to determine if a proposal is reasonably susceptible for award, communications by the

procurement officer or the proposal evaluation committee are permitted with an offeror to clarify uncertainties or eliminate confusion concerning the contents of a proposal and determine responsiveness to the RFP requirements. Clarifications may not result in a material or substantive change to the proposal. The initial evaluation may be adjusted because of a clarification under this section.

After receipt of proposals, if there is a need for any substantial clarification or material change in the RFP, an amendment will be issued. The amendment will incorporate the clarification or change, and a new date and time established for new or amended proposals. Evaluations may be adjusted as a result of receiving new or amended proposals.

7.14

Discussions and Best and Final Offers

The State may conduct discussions or request best and final offers with offerors that have submitted proposals determined to be reasonably susceptible for award. The State is not obligated to do so, therefore, vendors should submit their best terms (cost and technical). The purpose of these discussions is to ensure full understanding of the requirements of the RFP and the offeror's proposal. Discussions will be limited to specific sections of the RFP or proposal identified by the procurement officer. Discussions, if held, will be after initial evaluation of proposals by the proposal evaluation committee. If modifications to the proposal are made as a result of these discussions, the modifications must be put in writing.

Offerors with a disability needing accommodation should contact the procurement officer prior to the date set for discussions so that reasonable accommodation can be made.

7.15

Preference Laws

The preference given to a resident North Dakota offeror will be equal to the preference given or required by the state of the nonresident bidder. A "resident" North Dakota bidder, offeror, seller, or contractor is one that has maintained a bona fide place of business within this State for at least one year prior to the date on which a contract was awarded. For a listing of state preference laws, visit the following website: http://egov.oregon.gov/DAS/PFSS/SPO/reciprocal_detail.shtml or contact the North Dakota State Procurement Office at 701-328-2683.

7.16

Contract Negotiation

After final evaluation, the procurement officer may negotiate with the offeror of the highest-ranked proposal. Negotiations, if held, will be within the scope of the request for proposals and limited to those items that would not have an effect on the ranking of proposals. If the highest-ranked offeror fails to provide necessary information for negotiations in a timely manner, or fails to negotiate in good faith, the State may terminate negotiations and negotiate with the offeror of the next highest-ranked proposal.

If contract negotiations are commenced, they will be held at:

ND Game and Fish Department
100 N. Bismarck Expressway
Bismarck, ND 58501

If contract negotiations are held, the offeror will be responsible for all cost including its travel and per diem expenses.

7.17

Failure to Negotiate

If the selected offeror:

- fails to provide the information required to begin negotiations in a timely manner;
- fails to negotiate in good faith;
- indicates it cannot perform the contract within the budgeted funds available for the project; or
- if the offeror and the State, after a good faith effort, cannot come to terms,

the State may terminate negotiations with the offeror initially selected and commence negotiations with the next highest ranked offeror.

7.18

Notice of Intent to Award - Offeror Notification of Selection

After the completion of contract negotiation the procurement officer will issue a written Notice of Intent to Award and send copies to all offerors. The Notice of Intent Award will set out the names and addresses of all offerors and identify the proposal selected for award. The scores and placement of other offerors will not be part of the Notice of Intent to Award.

The successful offeror named in the Notice of Intent to Award is advised not to begin work, purchase materials, or enter into subcontracts relating to the project until both the successful offeror and the State sign the contract.

7.19

Protest and Appeal

North Dakota law provides that an interested party may protest a solicitation.

If an interested party wishes to protest the content of this RFP, the protest must be received, in writing, by the procurement officer at least seven calendar days before the deadline for receipt of proposals.

An interested party may protest the award or proposed award of a contract.

If an offeror wishes to protest the award of a contract or proposed award of a contract, the protest must be received, in writing, by the procurement officer within seven calendar days after the date the Notice of Intent to Award was issued.

SECTION EIGHT ATTACHMENTS

8.01

Attachments

1. Contract Form
2. Risk Management - Indemnification and Insurance Requirements Appendix
3. Proposal Evaluation Form
4. Offeror Checklist

ATTACHMENT 1

SAMPLE PERSONAL SERVICE CONTRACT

THE PARTIES TO THIS CONTRACT ARE THE STATE OF NORTH DAKOTA, ACTING THROUGH ITS DEPARTMENT OF _____ (STATE), AND _____ (CONTRACTOR).

1. SCOPE OF SERVICE

CONTRACTOR, in exchange for the compensation paid by the STATE under this contract, agrees to provide the following services:

2. TERM OF CONTRACT

The term of this contract is for a period of _____ months, commencing on the ____ day of _____, 20____, and terminating on the ____ day of _____, 20____.

This contract may be renewed upon satisfactory completion of the initial contract term. The state reserves the right to execute up to **THREE** options to renew this contract annually under the same terms and conditions for a period of **12 MONTHS** each. This contract will not automatically renew. The State will provide written notice to the contractor of its intent to renew this contract at least **30 DAYS** before the scheduled contract expiration date.

3. COMPENSATION

STATE will pay for the services provided by CONTRACTOR under this contract an amount not to exceed _____ per _____, to be paid _____.

4. TERMINATION OF CONTRACT

a. Termination without cause. This contract may be terminated by mutual consent of both parties, or by either party upon 30 days' written notice.

b. Termination for lack of funding or authority. The STATE may terminate this contract effective upon delivery of written notice to the CONTRACTOR, or on any later date stated in the notice, under any of the following conditions:

- 1) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term. The contract may be modified by agreement of the parties in writing to accommodate a reduction in funds.
- 2) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.
- 3) If any license, permit or certificate required by law or rule, or by the terms of this contract, is for any reason denied, revoked, suspended or not renewed.

Termination of this contract under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

c. Termination for cause. The STATE by written notice of default to the CONTRACTOR may terminate the whole or any part of this contract:

- 1) If the CONTRACTOR fails to provide services required by this contract within the time specified or any extension agreed to by the STATE; or
- 2) If the CONTRACTOR fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms.

The rights and remedies of the STATE provided in the above clause related to defaults by the CONTRACTOR are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.

5. FORCE MAJEURE

CONTRACTOR shall not be held responsible for delay or default caused by fire, riot, acts of God or war if the event is beyond the CONTRACTOR's reasonable control and the CONTRACTOR gives notice to the STATE immediately upon occurrence of the event causing the delay or default or which is reasonably expected to cause a delay or default.

6. RENEWAL

This contract will not automatically renew. STATE will provide written notice to CONTRACTOR of its intent to renew this contract at least sixty days before the scheduled termination date.

7. MERGER AND MODIFICATION

This contract constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this contract. This contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by both parties.

8. SEVERABILITY

If any term of this contract is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms shall not be affected, and, if possible, the rights and obligations of the parties are to be construed and enforced as if the contract did not contain that term.

9. ASSIGNMENT AND SUBCONTRACTS

CONTRACTOR may not assign or otherwise transfer or delegate any right or duty without the STATE's express written consent. However, the CONTRACTOR may enter into subcontracts provided that any such subcontract acknowledges the binding nature of this contract and incorporates this contract, including any attachments. CONTRACTOR is solely responsible for the performance of any subcontractor. CONTRACTOR shall not have the authority to contract for or incur obligations on behalf of the STATE.

10. NOTICE

All notices or other communications required under this contract shall be given by registered or certified mail and are complete on the date mailed when addressed to the parties at the following addresses:

_____ or _____

11. APPLICABLE LAW AND VENUE

This contract is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this contract must be brought in the District Court of Burleigh County, North Dakota.

12. SPOILIATION – NOTICE OF POTENTIAL CLAIMS

CONTRACTOR SHALL PROMPTLY NOTIFY STATE OF ALL POTENTIAL CLAIMS WHICH ARISE OR RESULT FROM THIS CONTRACT. CONTRACTOR SHALL ALSO TAKE ALL REASONABLE STEPS TO PRESERVE ALL PHYSICAL EVIDENCE AND INFORMATION WHICH MAY BE RELEVANT TO THE CIRCUMSTANCES SURROUNDING A POTENTIAL CLAIM, WHILE MAINTAINING PUBLIC SAFETY, AND GRANTS TO THE STATE THE OPPORTUNITY TO REVIEW AND INSPECT THE EVIDENCE, INCLUDING THE SCENE OF AN ACCIDENT.

13. INDEMNITY

CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF NORTH DAKOTA, ITS AGENCIES, OFFICERS, AND EMPLOYEES (NORTH DAKOTA), FROM CLAIMS RESULTING FROM THE PERFORMANCE OF THE CONTRACTOR OR ITS AGENT, INCLUDING ALL COSTS, EXPENSES AND ATTORNEYS' FEES, WHICH MAY IN ANY MANNER RESULT FROM OR ARISE OUT OF THIS CONTRACT. THE LEGAL DEFENSE PROVIDED BY CONTRACTOR TO NORTH DAKOTA UNDER THIS PROVISION MUST BE FREE OF ANY CONFLICTS OF INTEREST, EVEN IF RETENTION OF SEPARATE LEGAL COUNSEL FOR NORTH DAKOTA IS NECESSARY. CONTRACTOR SHALL ALSO DEFEND, INDEMNIFY, AND HOLD NORTH DAKOTA HARMLESS FOR ALL COSTS, EXPENSES, AND ATTORNEYS' FEES INCURRED IN ESTABLISHING AND LITIGATING THE INDEMNIFICATION COVERAGE PROVIDED IN THIS SECTION. THE OBLIGATION IN THIS SECTION SHALL CONTINUE AFTER TERMINATION OF THIS CONTRACT, OR ANY EXTENSIONS OR RENEWALS OF IT.

14. INSURANCE

A. REQUIRED COVERAGES. CONTRACTOR SHALL SECURE AND KEEP IN FORCE DURING THE TERM OF THIS CONTRACT AND CONTRACTOR SHALL REQUIRE ALL SUBCONTRACTORS, PRIOR TO COMMENCEMENT OF AN AGREEMENT BETWEEN CONTRACTOR AND THE SUBCONTRACTOR, TO SECURE AND KEEP IN FORCE DURING THE TERM OF THIS CONTRACT, FROM INSURANCE COMPANIES, GOVERNMENT SELF-INSURANCE POOLS OR GOVERNMENT SELF-RETENTION FUNDS, AUTHORIZED TO DO BUSINESS IN NORTH DAKOTA, THE FOLLOWING INSURANCE COVERAGES:

- 1) COMMERCIAL GENERAL LIABILITY, INCLUDING PREMISES OR OPERATIONS, CONTRACTUAL, AND PRODUCTS OR COMPLETED OPERATIONS COVERAGES (IF APPLICABLE), WITH MINIMUM LIABILITY LIMITS OF \$250,000 PER PERSON AND \$1,000,000 PER OCCURRENCE.
- 2) AUTOMOBILE LIABILITY, INCLUDING OWNED (IF ANY), HIRED, AND NON-OWNED AUTOMOBILES, WITH MINIMUM LIABILITY LIMITS OF \$250,000 PER PERSON AND \$1,000,000 PER OCCURRENCE.
- 3) WORKERS COMPENSATION COVERAGE MEETING ALL NORTH DAKOTA STATUTORY REQUIREMENTS, INCLUDING: A) AN "ALL STATES ENDORSEMENT" TO COVER CLAIMS OCCURRING OUTSIDE THE STATE OF NORTH DAKOTA IF ANY

OF THE SERVICES PROVIDED UNDER THIS CONTRACT INVOLVE WORK OUTSIDE THE STATE OF NORTH DAKOTA; AND B) EMPLOYER'S LIABILITY OR "STOP GAP" INSURANCE OF NOT LESS THAN \$1,000,000 AS AN ENDORSEMENT ON THE WORKERS COMPENSATION OR COMMERCIAL GENERAL LIABILITY INSURANCE IF CONTRACTOR IS DOMICILED OUTSIDE THE STATE OF NORTH DAKOTA.

- B. GENERAL INSURANCE REQUIREMENTS. THE INSURANCE COVERAGES LISTED ABOVE MUST MEET THE FOLLOWING ADDITIONAL REQUIREMENTS.
- 1) ANY DEDUCTIBLE OR SELF INSURED RETENTION AMOUNT OR OTHER SIMILAR OBLIGATION UNDER THE POLICIES SHALL BE THE SOLE RESPONSIBILITY OF THE CONTRACTOR. THE AMOUNT OF ANY DEDUCTIBLE OR SELF RETENTION IS SUBJECT TO APPROVAL BY THE STATE.
 - 2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed and maintained for the term of this contract and any extensions with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the State. The policies shall be in form and terms approved by the STATE. "Follows form" means the excess policy must be written with the same terms and conditions as the policy to which it is excess.
 - 3) NORTH DAKOTA will be defended, indemnified, and held harmless to the full extent of any coverage actually secured by the CONTRACTOR in excess of the minimum requirements set forth above. The duty to indemnify NORTH DAKOTA under Section 13 shall not be limited by the insurance required in this section.
 - 4) The State of North Dakota and its agencies, officers, and employees (State) shall be endorsed on the commercial general liability policy, including any excess policies (to the extent applicable), as additional insureds. NORTH DAKOTA shall have all the benefits, rights and coverages of an additional insured under these policies.
 - 5) The insurance required in this section, through a policy or endorsement, shall include:
 - a. a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against NORTH DAKOTA;
 - b. a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned STATE representative;
 - c. a provision that any attorney who represents NORTH DAKOTA under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08;
 - d. a provision that CONTRACTOR's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by NORTH DAKOTA and that any insurance, self-insurance or self-retention maintained by NORTH DAKOTA shall be excess of the CONTRACTOR's insurance and shall not contribute with it;
 - e. cross liability/severability of interest coverage for all policies and endorsements.
 - 6) The legal defense provided to NORTH DAKOTA under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for NORTH DAKOTA is necessary.

- 7) CONTRACTOR shall furnish a certificate of insurance to the undersigned STATE representative prior to commencement of this contract. All endorsements shall be provided as soon as practicable.
- 8) Failure to provide insurance as required in this section is a material breach of contract entitling STATE to immediately terminate this contract.

15. ATTORNEY FEES

In the event a lawsuit is instituted by the STATE to obtain performance due of any kind under this contract, and the STATE is the prevailing party, CONTRACTOR shall, except when prohibited by N.D.C.C. § 28-26-04, pay the STATE's reasonable attorney fees and costs in connection with the lawsuit.

16. ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL

The STATE does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The parties have the right to enforce their rights and remedies in judicial proceedings. The STATE does not waive any right to a jury trial.

17. CONFIDENTIALITY

CONTRACTOR agrees not to use or disclose any information it receives from the STATE under this contract that the STATE has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this contract or as authorized in advance by the STATE. The STATE agrees not to disclose any information it receives from CONTRACTOR that the CONTRACTOR has previously identified as confidential and which the STATE determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota open records law, N.D.C.C. § 44-04-18. The duty of STATE and CONTRACTOR to maintain confidentiality of information under this section continues beyond the term of this contract, or any extensions or renewals of it.

18. COMPLIANCE WITH PUBLIC RECORDS LAW

CONTRACTOR understands that, except for disclosures prohibited in Section 17, the STATE must disclose to the public upon request any records it receives from CONTRACTOR. CONTRACTOR further understands that any records which are obtained or generated by the CONTRACTOR under this contract, except for records that are confidential under Section 17, may, under certain circumstances, be open to the public upon request under the North Dakota open records law. CONTRACTOR agrees to contact the STATE immediately upon receiving a request for information under the open records law and to comply with the STATE's instructions on how to respond to the request.

19. WORK PRODUCT, EQUIPMENT AND MATERIALS

All work product, equipment or materials created or purchased under this contract belong to the STATE and must be delivered to STATE at STATE's request upon termination of this contract. CONTRACTOR agrees that all materials prepared under this contract are "works for hire" within the meaning of the copyright laws of the United States and assigns to STATE all rights and interests CONTRACTOR may have in the materials it prepares under this contract, including any right to derivative use of the material. CONTRACTOR shall execute all necessary documents to enable STATE to protect its rights under this section.

20. INDEPENDENT ENTITY

CONTRACTOR is an independent entity under this contract and is not a STATE employee for any purpose, including but not limited to the application of the Social Security Act, the Fair Labor

Standards Act, the Federal Insurance Contribution Act, the North Dakota Unemployment Compensation Law and the North Dakota Workers' Compensation Act. CONTRACTOR retains sole and absolute discretion in the manner and means of carrying out the CONTRACTOR's activities and responsibilities under this contract, except to the extent specified in this contract.

21. NONDISCRIMINATION AND COMPLIANCE WITH LAWS

CONTRACTOR agrees to comply with all applicable laws, rules, regulations and policies, including but not limited to those relating to nondiscrimination, accessibility and civil rights. CONTRACTOR agrees to timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including but not limited to sales and use taxes and unemployment compensation and workers' compensation premiums. CONTRACTOR shall have and keep current at all times during the term of this contract all licenses and permits required by law.

22. STATE AUDIT

All records, regardless of physical form, and the accounting practices and procedures of CONTRACTOR relevant to this contract are subject to examination by the North Dakota State Auditor or the Auditor's designee. CONTRACTOR will maintain all such records for at least three years following completion of this contract.

23. PREPAYMENT

The STATE will not make any advance payments before performance by the CONTRACTOR under this contract.

24. TAXPAYER ID

CONTRACTOR's North Dakota tax ID number is: _____. CONTRACTOR's federal employer ID number is: _____.

25. EFFECTIVENESS OF CONTRACT

This contract is not effective until fully executed by both parties.

CONTRACTOR

BY: _____

ITS: _____

DATE: _____

STATE OF NORTH DAKOTA

BY: _____

ITS: _____

DATE: _____

ATTACHMENT 2

RISK MANAGEMENT INDEMNIFICATION & INSURANCE REQUIREMENTS

INTERMEDIATE EXPOSURE WITH ADDITIONAL INSURED ENDORSEMENT – GOODS AND SERVICES (**ENDORSEMENT TO POLICY IS NECESSARY**)

Indemnification

Contractor agrees to defend, indemnify, and hold harmless the state of North Dakota, its agencies, officers and employees (State), from claims resulting from the performance of the contractor or its agent, including all costs, expenses and attorneys' fees, which may in any manner result from or arise out of this agreement. The legal defense provided by Contractor to the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. Contractor also agrees to defend, indemnify, and hold the State harmless for all costs, expenses and attorneys' fees incurred in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Insurance

Contractor shall secure and keep in force during the term of this agreement and Contractor shall require all subcontractors, if authorized, prior to commencement of an agreement between Contractor and the subcontractor, to secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

- 1) Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- 2) Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- 3) Workers compensation coverage meeting all statutory requirements. The policy shall provide coverage for all states of operation that apply to the performance of this contract.

The insurance coverages listed above must meet the following additional requirements:

- 1) Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor. The amount of any deductible or self-retention is subject to approval by the State.
- 2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the State. The policies shall be in form and terms approved by the State.
- 3) The State will be defended, indemnified, and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the State under this agreement shall not be limited by the insurance required in this agreement.
- 4) The State of North Dakota and its agencies, officers, and employees (State) shall be endorsed on the commercial general liability policy, including any excess policies (to the extent applicable), as additional insured. The State shall have all the benefits, rights and coverages of an additional insured under these policies.
- 5) The insurance required in this agreement, through a policy or endorsement, shall include:
 - a) a "Waiver of Subrogation" waiving any right to recovery the insurance company may have against the State;

- b) a provision that the policy and endorsements may not be canceled or modified without thirty days' prior written notice to the undersigned State representative;
 - c) a provision that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08;
 - d) a provision that Contractor's insurance coverage shall be primary (i.e. pay first) as respects any insurance, self-insurance or self-retention maintained by the state and that any insurance, self-insurance or self-retention maintained by the State shall be in excess of the Contractor's insurance and shall not contribute with it;
 - e) cross liability/severability of interest for all policies and endorsements;
- 6) The legal defense provided to the State under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary.
 - 7) The Contractor shall furnish a certificate of insurance to the undersigned State representative prior to commencement of this agreement. All endorsements shall be provided as soon as practicable.
 - 8) Failure to provide insurance as required in this agreement is a material breach of contract entitling the State to terminate this agreement immediately.

ATTACHMENT 3

Request for Proposal Evaluation Form

Name of RFP:		
RFP Number		
Vendor Being Evaluated:		
Evaluator Name:		
Date:		
Technical Evaluation (Maximum 50 Points)	Maximum Points by Category	Score
1. Management Plan for the Project	40	
2. Experience, Qualifications, & Equipment:	10	
Cost Evaluation (Maximum 50 Points) 1. Make adjustments for reciprocal preference, if necessary. See list of States Preference Laws: http://www.state.nd.us/csd/spo/resources.html 2. Calculated points awarded for price. $\frac{\text{Price of Lowest Cost Proposal}}{\text{Price of Proposal Being Rated}} \times 50 \text{ points} = \text{Awarded Points}$		
5. Cost	50	
Total		

Field Code Changed

ATTACHMENT 4

CHECKLIST FOR OFFERORS

- ☐ Submit any questions, comments, or requests for clarification to the procurement officer by the deadline for submission of questions.
- ☐ Review Attachments 1 and 2. State any objections to any of the provisions in the Contract Form or Indemnification and Insurance Requirements prior to the deadline for submission of questions.
- ☐ Be sure an individual authorized to bind the offeror to the provisions of the RFP signs the proposal.
- ☐ Comply with the North Dakota Secretary of State and the North Dakota State Procurement Office Registration requirements prior to the deadline stated in the RFP.
- ☐ Provide the information about the qualifications of the firm and individuals that will be working on the project and the equipment used. (Section 6.04)
- ☐ Provide the required number of references. (Section 6.04)
- ☐ Provide 3 copies of your proposal. (Section 1.04)
- ☐ Provide all other documents or materials that must be submitted with the RFP.
- ☐ Identify and label any sections of the proposal you feel contain confidential information.